

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARTIN H. POEL,

Plaintiff,

vs.

No. CIV 11-0882 JB/GBW

WILLIAM WEBBER in his Individual Capacity,
WILLIAM WEBER as New Mexico State Actor,
STEVEN VOGEL in his Individual Capacity,
STEVEN VOGEL as New Mexico State Actor,
ROBERT ROBLES in his Official Capacity as Judge of the
Third Judicial District Court of the State of New Mexico

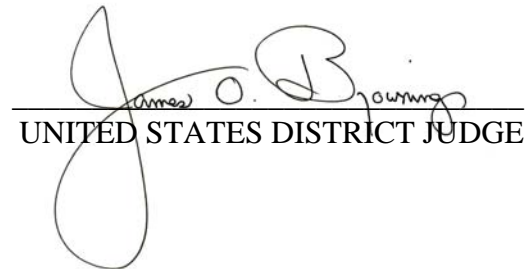
Defendants.

**MEMORANDUM OPINION AND ORDER ADOPTING MAGISTRATE
JUDGE’S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court on the Magistrate Judge’s Proposed Findings and Recommended Disposition, filed May 4, 2012 (Doc. 48)(“PFRD”). In his PFRD, the Honorable Gregory B. Wormuth, United States Magistrate Judge, recommended granting Defendant Judge Robert Robles’ First Motion to Dismiss and Memorandum in Support Thereof, filed October 26, 2011 (Doc. 7), and dismissing Plaintiff Martin H. Poel’s claims against Judge Robles with prejudice. See PFRD at 17. Judge Wormuth recommended denying Judge Robles’ requests for costs and fees without prejudice to him filing a subsequent motion, because “it is impossible to make a meaningful recommendation regarding costs/fees without an understanding of Judge Robles’ bases and permitting Plaintiff to respond to the same.” PFRD at 6-7. Judge Wormuth notified Poel of his ability to file objections and that failure to do so within the required time frame waives appellate review. See PFRD at 7. Subsequently, Poel filed his Poel’s Concurrence in Recommended Disposition, filed May 8, 2012 (Doc. 49)(“Concurrence”). In his Concurrence, he notes that he

concur with the PFRD “in so far as [it] state[s] that [Plaintiff’s] Complaint against Robert Robles in his official capacity . . . be dismissed without prejudice . . . , and that Robert Robles’ request for attorney fees and costs be denied.” Concurrence at 1.¹ Poel has filed no other pleading in response to the PFRD. No other party has filed objections to the PFRD. Given the lack of objection and the Court’s concurrence with the analysis in the PFRD, the Court determines that Judge Wormuth’s findings and disposition should be adopted.

IT IS ORDERED that: (i) the Magistrate Judge’s Proposed Findings and Recommended Disposition, filed May 4, 2012 (Doc. 48), is adopted; (ii) Defendant Judge Robert Robles’ First Motion to Dismiss and Memorandum in Support Thereof, filed October 26, 2011 (Doc. 7), is granted; and (iii) Judge Robles’ request for costs and fees is denied without prejudice to him filing a subsequent motion to clarify his basis for costs and fees.



UNITED STATES DISTRICT JUDGE

Parties and Counsel:

Martin H. Poel
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Plaintiff pro se

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¹To the extent that Poel believes that this language has preserved any objection to the PFRD, he is mistaken. His failure to file timely and specific objections constitutes waiver of further review. See One Parcel of Real Prop., with Buildings, Appurtenances, Improvements, and Contents. Known as: 2121 E. 30th Street, Tulsa, Okla., 73 F.3d 1057, 1060 (10th Cir. 1996).

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